

REMARKS

Applicants have studied the Final Office Action dated November 3, 2005. By virtue of this amendment, claims 1-27 are pending, and claims 1, 10, and 19 have been submitted for amendment. Entry of the amendment is respectfully requested. It is believed that only a clarification of the term "bid" is needed to overcome the cited art. The claims have been amended to further define "bid" and thus, it is respectfully requested that the Examiner enter and consider the following clarifying amendment and remarks.

Claims 1-2, 4-11, 13-20, and 22-27 were rejected under 35 U.S.C. § 103(a) as being unpatentable by U.S. Patent Application Publication No. 2001/0049648 to Naylor et al. ("the Naylor et al. reference") in view of U.S. Patent Application Publication No. 2002/0007338 to Do ("the Do reference). In addition, claims 3, 12, and 21 were rejected under 35 U.S.C. § 103(a) as being unpatentable by U.S. Patent Application Publication No. 2001/0049648 to Naylor et al. ("the Naylor et al. reference") in view of U.S. Patent Application Publication No. 2002/0007338 to Do ("the Do reference), as applied to claims 1, 10, and 19 and in further view of U.S. Patent Application Publication No. 2002/00013761 to Bundy ("the Bundy reference). These rejections are respectfully traversed.

Embodiments of the present invention are directed to a pre-order system that only produces a work of art if enough bids are generated (i.e. demand exists). In the present embodiments, the question of price is pre-fixed before the bidding process is started. Amended independent claim 1 recites "collecting a number of bids from users for the work of art at a fixed price per bid, wherein the number of bids provides a collective demand for the work of art such that the bids are non-competitive with each other ... and ordering the work of art to be produced if the number of bids for the work of art associated with the at least one project record reaches the minimum number of bids, wherein the minimum number of bids is greater than one" (emphasis added). Independent claims 10 and 19 have been amended to recite similar limitations. Support for the amended claims exists throughout the original specification. For example, page 8, lines 9-15 states: "typically the production process starts when a contract is made between the artist and the website owner to produce a work of art if a certain demand for

the work of art is established by the users of the website. The website owner or any other production administrator determines the number of bids and cost per unit of the work of art needed in order for the production to be profitable. The number of bids and cost per unit is determined based on the minimum amount of money the artist agrees to accept to produce the work of art." No new matter was added.

The Naylor et al. reference is directed to an auction site for selling and auctioning off display rights to digital imagery. The embodiments described in the Naylor et al. reference describe an auction system to maximize the price of the display rights to digital imagery, with each new bid being at a higher price or a Dutch Auction system where a successful bid price is determined based on the bid price received during the auction. For example, paragraph [0018] in the Naylor et al. reference describes "a minimum price and a starting price in menu 46 if the demand curve option is selected" while paragraph [0072] describes "the successful bid price is selected by determining, at the close of the offer period, the maximum revenue from all buyers offering at or above the successful bid wherein all winning bidders pay the lowest successful bid price. In other embodiments, the Naylor et al. reference describes "a 'take-it' or 'reserve' price where the buyer can take the image without waiting for the bid period to expire. See paragraph [0018]. The Naylor et al. reference describes various processes for getting the best price for the seller. Nowhere in the cited sections of the Naylor et al. reference describe, teach, or suggest collecting a number of bids from users for the work of art at a fixed price per bid, wherein the number of bids provides a collective demand for the work of art such that the bids are non-competitive with each other and ordering the work of art to be produced if the number of bids for the work of art associated with the at least one project record reaches the minimum number of bids. In other words, the Naylor et al. reference does not attempt to maximize the number of bids at a preset price, but instead focuses on maximizing the sales price as in traditional auction methods. Claim 1 was further amended to recite that the minimum number of bids is greater than one to eliminate the possible interpretation that the "take-it or reserve price" option described in the Naylor et al. reference would still read on the claim if the minimum number of bids is one. Accordingly, it is respectfully submitted that amended independent claims 1, 10, and 19 (and thus dependent claims 2-9, 11-18, and 20-27) are patentable over the Naylor et al. reference.

The Do reference does not make up for the deficiencies of the Naylor et al. reference. The Do reference is directed to an auction system in a networked environment. The Examiner specifically cited the Do reference for the proposition of "setting a cutoff date," "a minimum number of bids greater than one," and the "option customize credits associated with the item for each user by listing the user name if the number of bids reaches the minimum number of bids." However, the concept of bids as used in the present application is not described or suggested in the Do reference. The Do reference attempts to have buyers or sellers compete in each of its bids. Although the Do reference describes that more than one bidder may win the right to go to a another round of bidding (see p. 9, paragraphs 93), the Do reference still teaches the idea that there's one winner of the final round. Nowhere in the cited sections of the Do et al. reference describe, teach, suggest or otherwise render obvious the claimed subject matter of "collecting a number of bids from users for the work of art at a fixed price per bid, wherein the number of bids provides a collective demand for the work of art such that the bids are non-competitive with each other." (emphasis added) as recited in the independent base claims. Accordingly, it is respectfully submitted that amended independent claims 1, 10, and 19 (and thus dependent claims 2-9, 11-18, and 20-27) are patentable over the Do reference.

The Bundy et al. reference does not make up for the deficiencies of the Naylor et al. and Do references. The Bundy et al. reference is directed to an auction system in a networked environment. The Examiner specifically cited the Bundy et al. reference for the proposition of "obtaining prepayment." Nowhere in the cited sections of the Bundy et al. reference describe, teach, suggest or otherwise render obvious the claimed subject matter of "collecting a number of bids from users for the work of art at a fixed price per bid, wherein the number of bids provides a collective demand for the work of art such that the bids are non-competitive with each other." (emphasis added) as recited in the independent base claims. Accordingly, it is respectfully submitted that dependent claims 3, 12, and 21 are also patentable over the Bundy et al. reference.

Therefore, it is respectfully submitted that the rejection of claims 1-27 under 35 U.S.C. § 103(a) should be withdrawn.

Therefore, in light of the above remarks, it is respectfully submitted that claims 1-27 are in condition for allowance. Reexamination and reconsideration of the application, as amended, are requested.

If for any reason the Examiner finds the application other than in condition for allowance, the Examiner is requested to call the undersigned attorney at the Northridge, California, telephone number (818) 576-4110, to discuss the steps necessary for placing the application in condition for allowance.

Respectfully submitted,

Dated: 4/25/06

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